Supreme Court, U.S.
FILED
1994

CASE NO. 93-1119

THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1993

IN RE: CLARENCE O. GESCHKE
and IRENE M. GESCHKE

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

REPLY TO BRIEF IN OPPOSITION

CLARENCE O. GESCHKE
and IRENE M. GESCHKE,
Plaintiffs-Petitioners *Pro Se*
639 Chardonnay Lane
Crystal Lake, Illinois 60014

CASE NO. 93-1119

THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM 1993

IN RE: CLARENCE O. GESCHKE
and IRENE M. GESCHKE

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

REPLY TO BRIEF IN OPPOSITION

CLARENCE O. GESCHKE
and IRENE M. GESCHKE,
Plaintiffs-Petitioners *Pro Se*
639 Chardonnay Lane
Crystal Lake, Illinois 60014

TABLE OF CONTENTS

Page

Introduction.....1

Petition For Writ Of Certiorari Argues That Judge Has Denied Due Process And A Jury Trial, And Is Biased And Prejudiced.....1

Petition For Writ Of Certiorari Is Not Grounded On The Judge's Rulings....3

Respondents Fail To Address Arguments, And Grounds Supporting Those Arguments, Presented In Petition For Certiorari.....6

Conclusion.....7

Introduction

Petitioners *pro se* Clarence O. Geschke and Irene M. Geschke reply as follows to the *Brief In Opposition* filed by respondents LaSalle National Bancorp, Inc. and Union Realty Mortgage Company, Inc. (hereinafter, "the respondents"):

The Geschkes, in their *Petition For Writ Of Certiorari* (hereinafter, "Petition"), ask the Supreme Court of the United States to review and reverse an Order of the United States Court of Appeals for the Seventh Circuit. That order denied the Geschkes' *Petition For Writ Of Mandamus* to United States District Judge John F. Grady to recuse himself from the Geschkes' pending civil case 79 B 40657.

Petition For Writ Of Certiorari Argues That Judge Has Denied Due Process And A Jury Trial, And Is Biased And Prejudiced

The respondents, in their *Brief In*

Opposition (hereinafter, "Brief"), begin by quoting part of Supreme Court Rule 10.1(a), which they assert is the Geschkes' argument for granting their Petition. (see Brief, pg. 2 par. 1)

However, contrary to the respondents, the Geschkes in their Petition present the following three questions for this Court's review.

(1) "Whether, in a fourteen-year-old case that the district court judge has never brought to trial, the judge's actions have departed from the accepted and usual course of judicial proceedings by denying the petitioners' rights under the United States Constitution and by not acting in accordance with federal rules and case law."

(2) "Whether the district court judge's actions indicate that he

harbors bias and prejudice against the petitioners."

(3) "Whether the Court of Appeals for the Seventh Circuit erred in denying the petitioners' *Petition For Writ Of Mandamus* to the district court judge to recuse himself from the case, and thereby sanctioned the judge's actions and his bias, prejudice and partiality."

(see Petition, pg. iii)

Petition For Writ Of Certiorari Is Not Grounded On The Judge's Rulings

The respondents state, erroneously, that the Geschkes' Petition is grounded solely on the judge's rulings. (see Brief, pg. 2 par. 2) Even a cursory review of the Petition would make the respondents well aware it is not grounded on the judge's rulings. The Petition presents four separate grounds

to support its arguments that the answer to all the above three questions presented for review is "Yes." Those four grounds are:

(1) the judge's failure to take this fourteen-year-old case to trial although he has presided over the case since April 1983 (see Petition pp. 18-19, 34-39, 53);

(2) the judge's *ex parte* communication with the respondents' legal counsel (see Petition pp. 19-20, 39-43, 52);

(3) the judge's adoption of unfair and improper procedures that favored the respondents, to the Geschkes' detriment (see Petition pp. 10-14, 21-30, 43-47, 53);

(4) the judge's failure to comply with federal rules of civil procedure and the law of the

case (see Petition pp. 30-32, 47-51, 53).

The Petition argues that the four grounds show that the judge is biased and prejudiced against the Geschkes and their cause and is partial to the defendants.

The Petition argues that those grounds show that the judge has denied the Geschkes their Constitutional rights to due process and to a trial before a jury. (see Petition, pp. 33, 37-38) [Contrary to the respondents (Brief, pg. 3 par. 5), the Geschkes have secured a jury trial and, barring the judge's issuance of a judgment as a matter of law in favor of the defendants, the decision will be rendered by a jury.]

The Petition argues that the four grounds show that the judge has departed from the accepted and usual course of judicial proceedings. (see Petition, pp.

32-33)

Respondents Fail To Address Arguments, And Grounds Supporting Those Arguments, Presented In Petition For Certiorari

The respondents in their Brief do not address in any way the judge's failure to take case 79 B 40657 to trial and his *ex parte* communication with them.

Nor do the respondents address the Petition's arguments concerning the judge's adoption of unfair and improper procedures (see Petition, pp. 10-14, 21-30, 43-47, 53) and his failure to follow federal rules and the law of the case. (see Petition, pp. 30-32, 47-51, 53)

Contrary to the respondents (Brief, pg. 2, par. 2), the judge is not conducting a bifurcated trial as authorized by Federal Civil Procedure Rule 42(b) "Separate Trials." The judge has stated his intention to conduct not separate trials but *one trial in two*

parts. [see Petition, pp. 30-31, 49 (and, in particular, the reference on pg. 49 to the *Petition For Writ Of Mandamus*, pp. 40-41)]

The Petition notes that the judge, in his Order denying the Geschkes' motion for his recusal, either misstated or did not address the arguments presented therein. (see Petition pg. 51) The respondents do not defend the one opinion issued in the proceedings to obtain the judge's recusal. (see Petition, pp. 51-55)

Nor do the respondents address the Court of Appeals' failure to adhere to its own rulings, and the implications of that court's denial of the Geschkes' *Petition For Writ Of Mandamus*. (see Petition, pp. 55-62)

Conclusion

The respondents in their Brief rely on misrepresentation to mislead this

Court concerning the grounds on which the Geschkes base the arguments in their Petition.

The Petition's arguments in support of a writ of certiorari are not grounded on the judge's rulings or on any "mere error" on his part.

The grounds the Petition presents -- the unheard-of delay in taking a fourteen-year-old federal case to trial, *ex parte* communication between the judge and the defendants, the unfair and biased manner in which the judge conducted evidentiary hearings, the judge's disregard of federal procedural rules and the law of the case -- constitute an extraordinary departure from the accepted and usual course of judicial proceedings.

The judge's actions in case 79 B 40657 have also tended to defeat ultimate appellate review of the case.

The Court of Appeals, by denying the Geschkes' petition for writ of mandamus, has sanctioned by judge's actions. Review by the Supreme Court is therefore appropriate and merited.

The Geschkes ask this Court to grant their *Petition For Writ of Certiorari*.

Respectfully submitted this 7th day of February 1994.

Irene M. Geschke, *Pro Se*

Clarence O. Geschke, *Pro Se*

February 7, 1994

Irene M. Geschke
Clarence O. Geschke
639 Chardonnay Lane
Crystal Lake, Illinois 60014
(815) 455-5278